

**UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No. : 10/671,640
Applicant : GLENN, Bradley J.
Filed : 09/26/2003
TCA.U. : 3733
Examiner : PHILOGENE, Pedro

Docket No. : 3121.001

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 C.F.R. §1.131

I, Gary A. Schneiderman, declare as follows:

1. I am one of the co-inventors of the above-identified patent application.
2. I am a medical board certified as an orthopedic surgeon and have experience implanting medical devices in and about the human spine.
3. On April 24, 2000 I performed a spinal fusion procedure on Dr. Brad Glenn.
4. On May 18, 2000 I met with Dr. Glenn at Paragary's restaurant in Sacramento, California. At this meeting we discussed Dr. Glenn's idea for a method and apparatus for minimally invasive implantation of a stabilization device for use in stabilizing vertebrae adjacent to an intervertebral space, such as for use in spinal fusion procedures. Dr. Glenn described to me his basic idea of two intersecting elements. We discussed this concept together and refined this concept together during this meeting. We chose to enter into partnership to develop and license the invention.

5. In July 2000 Dr. Glenn showed me a first prototype of the invention formed of styrofoam and illustrating the method and apparatus of this invention. I was able to manipulate the two styrofoam elements and was able to determine that the elements could be implanted and manipulated to perform in a manner intended. The elements were oversized and not formed of biocompatible material or finely finished. Otherwise the prototype was ready for commercialization. I suggested to Dr. Glenn that an approximately proper size prototype for implantation into a human spine would better convey to others the function of the invention and would be a more useful tool for commercializing the invention. A few weeks later, Dr. Glenn provided a second prototype made of balsa wood, that is shown in Exhibits C, D and E.

6. The function of the styrofoam and balsa prototypes convinced me as well as Dr. Glenn that the invention was ready for commercialization.

7. Thereafter, and leading up to August 20, 2000, a Power Point presentation was prepared and meeting set up with the Sulzer-Spinetech medical device company of Winterthur, Switzerland. This meeting was originally scheduled for August 2000 but was later rescheduled for January 2001.

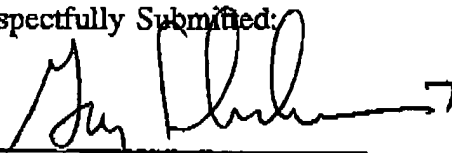
8. On October 12, 2000 an initial consultation was conducted with a registered patent attorney, Mr. Bradley P. Heisler, along with Dr. Schneiderman. The balsa prototype (Exhibits C, D and E) was given to Mr. Heisler. Thereafter, a patentability search was performed, and a patent application was prepared, reviewed and filed on March 27, 2001 that was the parent application for which this application was a continuation.

9. Mr. Heisler was able to draft the patent application based on physical examination of the balsa prototype. After filing the patent application, a second medical device company, DePuy Spine, Inc. of Raynham, Massachusetts did enter into a contract with Dr. Schneiderman and myself to commercialize this invention. DePuy Spine made

this decision to enter into this commercialization agreement without requiring any further construction or testing of additional prototypes other than the second balsa prototype (Exhibits C, D and E) and drawings from the patent application and other drawings corresponding with the balsa prototype.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully Submitted:



Gary A. Scheiderman, M.D.

12/16/08

Date



FIRST USA

7/8/00



Pd Ckt# 1070

ACCOUNT SUMMARY	
Account Number	
Total Credit Line	
Total Available Credit	
Cash Limit	
Cash Available	
Amount Past Due/Overlimit	\$0.00
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New Balance	\$4,684.02
Payment Due Date	07/14/00
MINIMUM PAYMENT DUE	\$93.00

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Payments	\$4,311.04
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Cash Advances	\$0.00
Other Debits/Fees	\$0.00
FINANCE CHARGE	\$0.00
NEW BALANCE	\$4,684.02

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TRANSACTIONS

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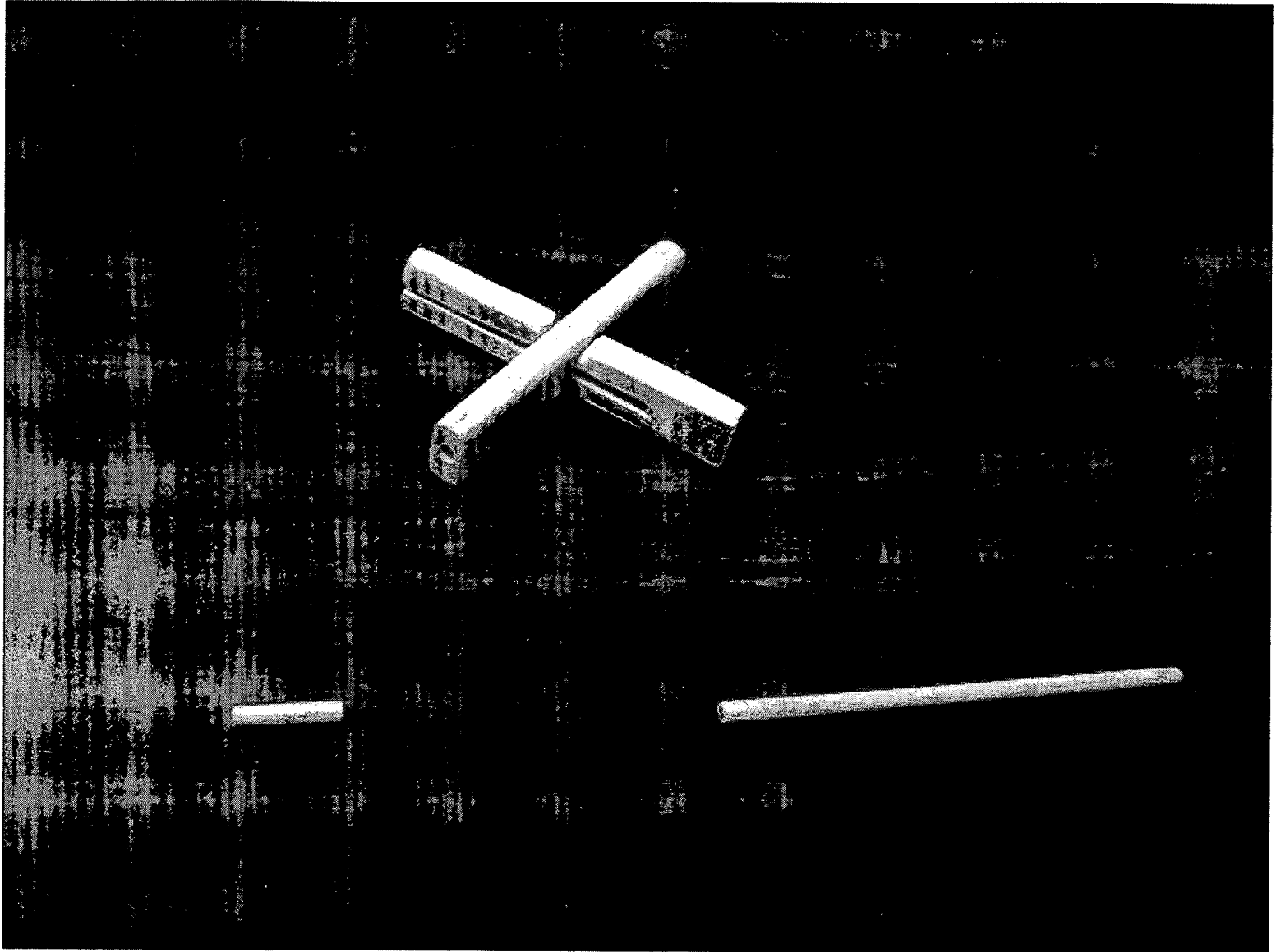
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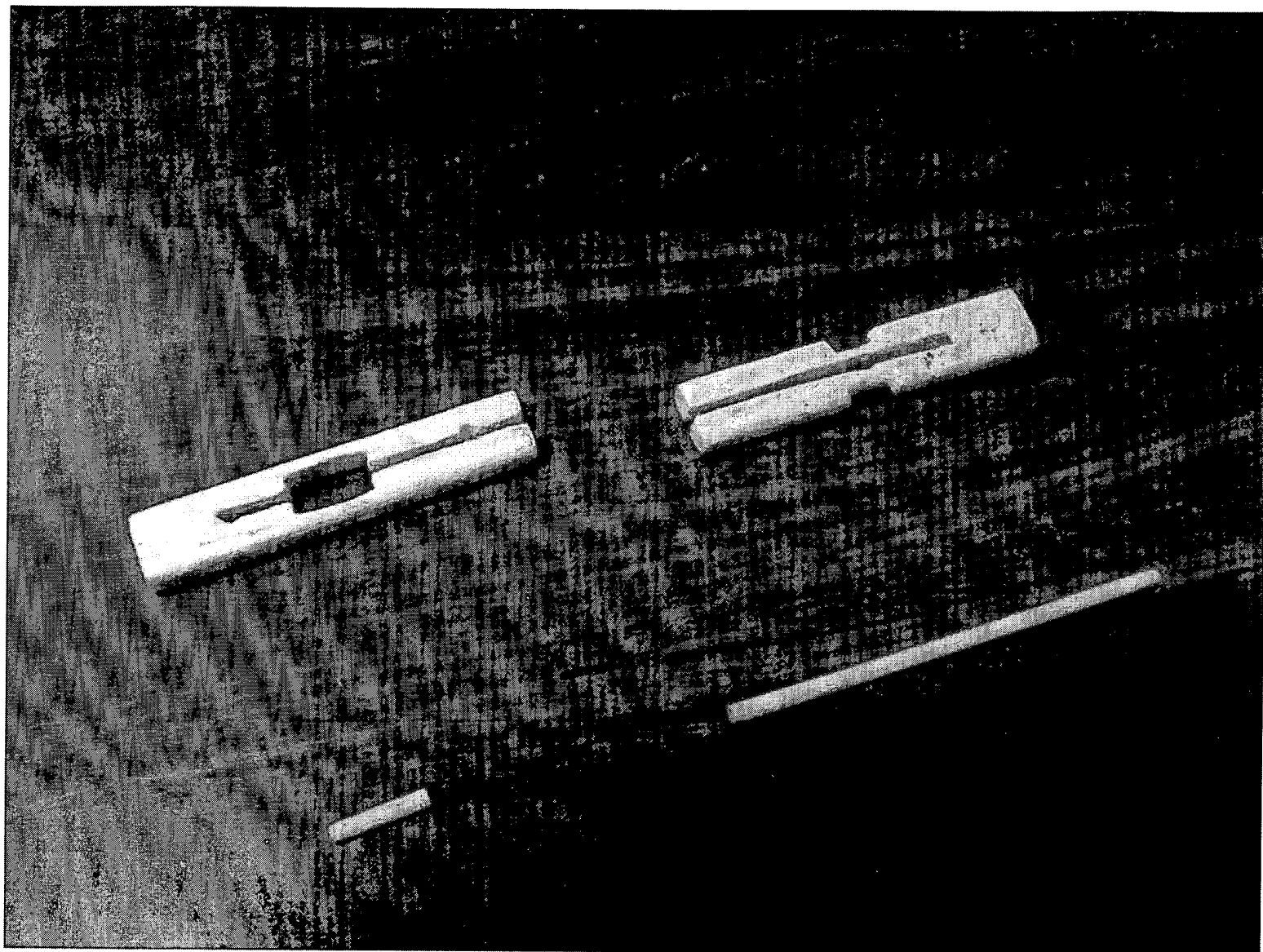
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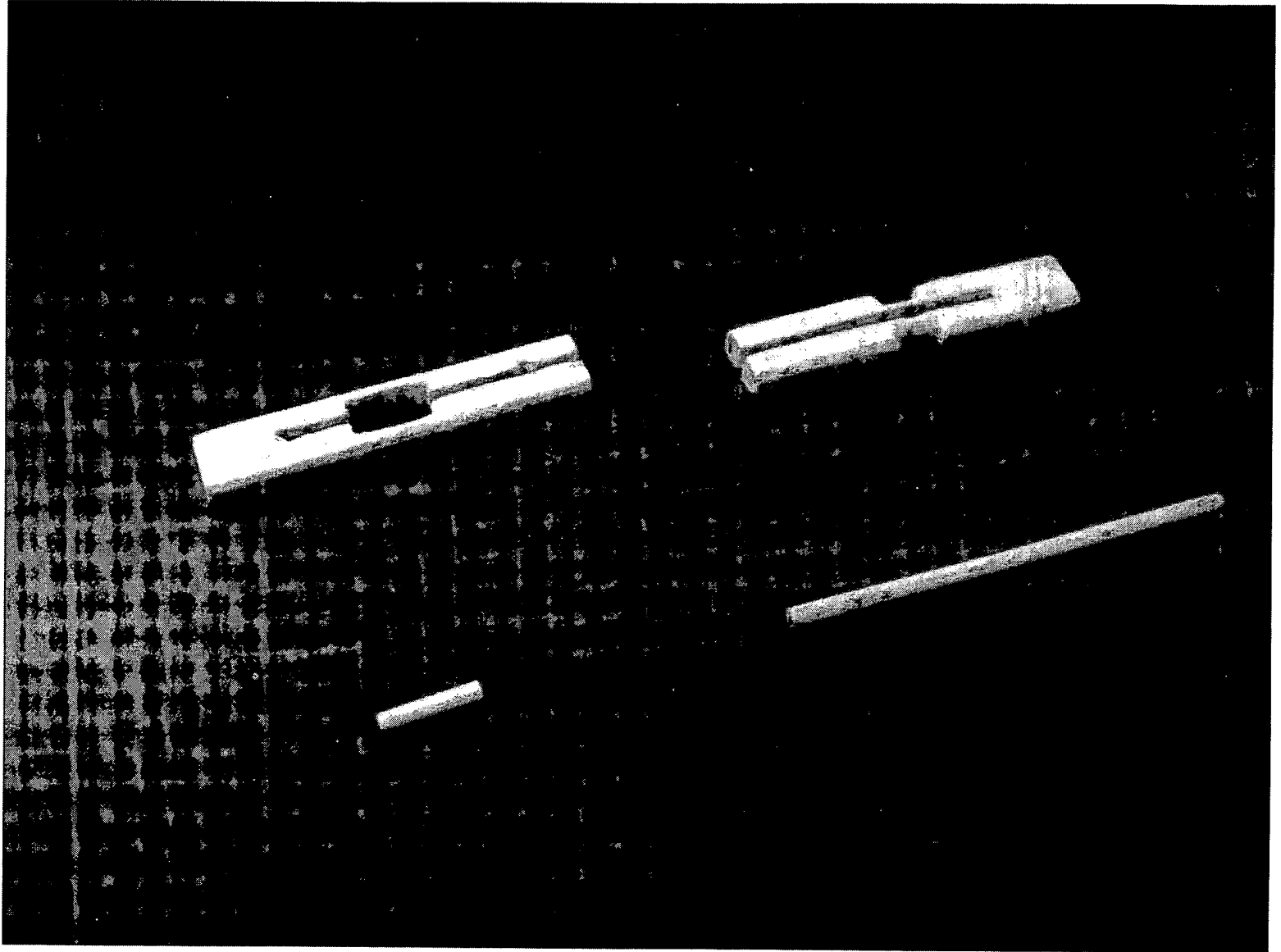
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						30		07/26/00		\$15.00		08/25/00	
								JULY 2000 STATEMENT		Charges		Credits (CR)	



— EXHIBIT C —



— EXHIBIT D —



— EXHIBIT E —